

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

Google Inc.,)
Plaintiff,)
v.)
No. 3:14cv981 HTW-LRA
Jim Hood, Attorney General of the State)
of Mississippi, in his official capacity,)
Defendant.)
Declaration of Victoria Grand in
Support of Plaintiff Google Inc.'s
Motion for Temporary Restraining
Order and Preliminary Injunction

I, Victoria Grand, hereby declare as follows:

1. I have been an employee of Google Inc. (“Google”) since October 2006. I am the Head of Policy Strategy at Google and have been in this role for four months. I was previously the Director of YouTube Policy for four and a half years. This declaration is based on my personal knowledge, review of relevant Google and YouTube business records, and conversations with other Google and YouTube personnel, and I am competent to so testify if called upon as a witness.

2. YouTube is a web-based platform owned by Google that allows users to upload, search for, view, and share videos. It has become a leading conduit for information sharing on an array of subjects, including entertainment, education, and news reports. Users upload nearly 300 new hours of video every minute. Over one billion unique users visit YouTube each month. These users collectively watch millions of hours of video each month.

YouTube Enforcement of Community Guidelines

3. Before uploading videos, users must register an account and agree to YouTube's Terms of Service and publicly-available Community Guidelines. The Community Guidelines detail the types and categories of videos not permitted on YouTube. A true and accurate copy of YouTube's Community Guidelines, as they appeared on December 10, 2014, at https://www.youtube.com/t/community_guidelines, is attached hereto as Exhibit 1.

4. YouTube identifies and removes videos that violate its Community Guidelines in three principal ways.

5. First, YouTube leverages its billions of users to "flag" videos as inappropriate. YouTube has a publicly available webpage that explains the process for flagging videos. A true and accurate copy of that webpage, as it appeared on December 10, 2014, at https://support.google.com/youtube/answer/2802027?hl=en&ref_topic=2803138, is attached hereto as Exhibit 2.

6. YouTube users flag or otherwise report approximately 100,000 videos per day for removal. Once a video is flagged, YouTube's dedicated enforcement team reviews the video and determines whether it violates the Community Guidelines. YouTube's enforcement team, staffed in multiple offices around the world, reviews videos 24 hours a day, seven days a week. Action is taken on videos reviewed by the enforcement team, on average, in under one hour. Any video found to violate YouTube's Community Guidelines is removed or blocked.

7. In 2014, YouTube's enforcement team has removed approximately 10 million videos in response to user flags or other complaints.

8. In certain egregious situations, such as child sexual abuse imagery, or in the case of repeat offenders, YouTube will terminate the account of a user who posts videos that violate Community Guidelines. YouTube has a publicly available webpage that explains when such account terminations may occur. A true and accurate copy of that webpage, as it appeared on December 10, 2014, at <https://support.google.com/youtube/answer/2802168?hl=en>, is attached hereto as Exhibit 3.

9. Second, YouTube engages in proactive monitoring and takedown efforts designed to identify content, when feasible, that users and third parties may be less likely to flag for review. For example, YouTube employs a program called Content ID to permit copyright owners to identify copyrighted works that have been uploaded to YouTube. The Content ID program is explained on a publicly available webpage. A true and accurate copy of that webpage, as it appeared on December 10, 2014, at

<https://support.google.com/youtube/answer/2797370?hl=en>, is attached hereto as Exhibit 4. In 2014, YouTube has received approximately 200 million Content ID claims from rights holders.

10. YouTube also utilizes home-grown state-of-the-art computer models that run daily across all the content on YouTube to identify large-scale policy violations, such as videos uploaded for the sole purpose of driving traffic to other sites (e.g., sites that purport to sell prescription drugs without requiring a valid prescription, also known as “rogue pharmacy” sites).

11. Third, YouTube also removes videos in response to valid legal complaints. This includes removal notices submitted by copyright owners or their representatives, which are submitted to YouTube’s Copyright Center. YouTube’s Copyright Center is accessible on a publicly available webpage. A true and accurate copy of that webpage, as it appeared on

December 10, 2014, at

https://support.google.com/youtube/answer/2807622?hl=en&ref_topic=2778544, is attached hereto as Exhibit 5.

12. As a result of these combined efforts, in 2014, YouTube has removed or blocked over 180 million videos for violations of Community Guidelines. This figure includes over 13 million videos removed or blocked for potential copyright violations and over 200,000 videos removed or blocked for violating YouTube's policies concerning the unauthorized sale of pharmaceuticals.

13. YouTube has committed significant monetary and human resources to the removal of videos that violate YouTube's Community Guidelines, including illegal videos. In 2014, YouTube expects to spend over \$25 million on such efforts, and there are over 200 people who have worked on these efforts around the globe.

Advertising on YouTube

14. When a user posts a video on YouTube, the user is given the option of possibly showing advertising on the video, usually in the form of a banner ad running horizontally across the video or a static image linking to an advertiser site. For users who satisfy the requirements for showing ads, revenue generated from those ads is shared between the user and Google. Videos with such advertising are known as "monetized" videos.

15. YouTube users who wish to monetize videos must agree to strict content policies under Google's AdSense program. AdSense's content policy is accessible on a publicly available webpage. A true and accurate copies of that webpage, as it appeared on December 10,

2014, at <https://support.google.com/adsense/answer/1348688?hl=en>, is attached hereto as

Exhibit 6.

16. Advertisers also place advertisements on search results pages on YouTube, in response to user queries, through the AdWords system. The AdWords program imposes separate restrictions on such advertisements, as described in the Declaration of Sheily Chhabria, filed contemporaneously herewith.

17. On YouTube, advertisers can bid for keywords to place their ads on a search results page or on the page of a video uploaded by a user. How AdWords works on YouTube is explained on a publicly available webpage. A true and accurate copy of that webpage, as it appeared on December 10, 2014, at <https://support.google.com/adwords/answer/2375464>, is attached as Exhibit 7.

18. Under the Content ID program described above, a rights holder to a video containing copyrighted content may elect to monetize the content, even if the content was not uploaded to the site by the copyright owner or its agents. This may occur, for example, when a home video contains background music that is protected by copyright. The Content ID program has generated more than \$1 billion in advertising revenue for copyright holders.

Attorney General Jim Hood and the Subpoena Served on October 27, 2014

19. I have reviewed the Administrative Subpoena and Subpoena Duces Tecum served on Google on October 27, 2014 (“Subpoena”). The Subpoena covers a broad range of content related to YouTube, and responding to it would be incredibly burdensome, in terms of time and resources.

20. The Subpoena identifies various content found on YouTube that it deems to be problematic. I can confirm that none of this content was created or developed by YouTube. Rather, it is all third-party content.

21. In 2014, Google created a bulk flagging tool specifically to provide Mississippi Attorney General Jim Hood and other interested attorneys general with the ability to flag YouTube videos more quickly and efficiently. Members of the Attorney General's staff were trained on how to use that tool in May 2014, and since that training, have flagged a total of seven videos for removal, six of which were removed for violating YouTube's policies. The seventh video, a Scandinavian film that discussed sexuality and parts of the human anatomy, was not removed because it did not violate state or federal laws and fell within YouTube's Community Guidelines for acceptable content.

22. At least four of the screenshots contained in the Subpoena contain links (those included within Interrogatory Nos. 54 and 57 and Document Request No. 106) that are the result of a rights holder electing to monetize a YouTube video. The page containing the video includes a link to a website where a user may purchase the content.

23. I have reviewed certain letters, press statements, and transcripts of speeches from the Attorney General, made over the last 18 months, in which he has repeatedly threatened to bring legal action against Google if it does not restrict and monitor third-party content on YouTube in line with his demands. All of the video content on YouTube about which the Attorney General has complained was created by third parties and not by Google or YouTube. The Attorney General's threats continue to burden YouTube's speech and threaten to chill it to

this day by attaching potentially significant consequences to YouTube's decision to host and display protected speech and expressive conduct, and to monetize certain videos.

24. Although YouTube has responded to complaints from the Attorney General about specific videos appearing on YouTube.com (and removed those videos when in violation of YouTube's policies), it has declined to delegate to him the task of deciding how YouTube should enforce compliance with its Community Guidelines.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 15, 2014, in Mountain View, California.



Victoria Grand